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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/560,666	04/27/2000	Dean J. Blackketter	MS1-413US	4370
22801	7590	12/01/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			LONSBERRY, HUNTER B	
			ART UNIT	PAPER NUMBER
			2611	
DATE MAILED: 12/01/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/560,666

Applicant(s)

BLACKKETTER ET AL.

Examiner

Hunter B. Lonsberry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29,37,47 and 51-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29,37,47 and 51-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

The newly added limitations regarding data tuners are taught by U.S. 6,421,728 to Mohammed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 37, 39, 47 and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,600,496 to Wagner in view of U.S. Patent 5,850,249 to Massetti, U.S. Patent 6,177,931 to Alexander and U.S. Patent 6,421,728 to Mohammed.

Regarding claims 37, 39 and 51-52, Wagner discloses an apparatus comprising:

An interactive television device (figure 2) configured to display a TV program (column 3, lines 7-49, figures 5-6),

Displaying an interactive TV mode indicator if the displayed TV program supports an interactive TV mode (figure 6, animated character 41, column 6, lines 18-43);

Activating the mode in response to a user request (column 6, lines 44-55)

Opening an interactive window (figure 7, window 45, column 6, lines 44-55, column 7, lines 9-16).

A data tuning device 17 (cable modem) and video tuning device 16 are utilized in the interactive session (column 4, lines 16-21), along with information within the VBI of the received TV signal (column 6, lines 24-29).

Wagner fails to disclose updating a channel status list for interactive programs, including the time, and identifying all channels for which the interactive mode has been activated and the use of a plurality of data tuners to maintain the state of multiple channels.

Massetti discloses a viewer monitoring system which utilizes an identification code and time stamp to figure out what program a user is watching, additionally, it monitors to see if a user is utilizing a VCR or playing a video game, the monitoring results are stored locally and then transmitted from home computer 82 to a central office (column 6, lines 48-67, column 7, lines 22-67, column 9, lines 11-24, line 57-column 10, line 16, column 13, lines 25- column 14, line 12, line 37column 15, line 50, column 16, lines 8-67), thus providing information to advertisers regarding what programs and services users are watching and using.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Wagner to include the status features of Massetti, thus providing information to advertisers regarding what programs and services users are watching and using.

The combination of Wagner and Massetti fails to disclose updating a channel status list for interactive programs, including the time, identifying all channels for which the interactive mode has been activated, and the use of a plurality of data tuners to maintain the state of multiple channels.

Alexander discloses a user monitoring system that records when a user accesses interactive content, the time, and the corresponding channel (column 18, lines 33-53, column 28, lines 30-67), this data is then analyzed to determine user characteristics for targeted advertising purposes (column 29, lines 14-55, column 30, lines 16-37, column 33, lines 26-43), thus providing targeted advertisements which would be of the most interest to a user.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Wagner and Massetti to utilize the monitoring of Alexander in order to analyze user characteristics to provide targeted advertising.

The combination of Wagner, Massetti, and Alexander fails to disclose the use of a plurality of data tuners to maintain the state of multiple channels.

Mohammed discloses in figure 1, a client 22 which has a cable modem 28 and an analog modem 30 (data tuners each with their own interactive channel and corresponding IP address, column 5, lines 32-61), the user transmits data to the

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headend server 8 via the analog modem and receives data via the cable modem 28 (column 3, line 60-column 4, line 25), thus making use of the entire bandwidth of the cable modem 28 without taking up bandwidth in the upstream direction.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Wagner, Massetti and Alexander to utilize the multiple data tuners of Mohammed for the advantage of not taking up additional bandwidth in the cable modem channel.

Regarding claims 47 and 53, Wagner discloses a computer readable media having stored thereon a computer program that, when executed by one or more processors, causes one or more processors to:

Displaying a TV program with an associated channel (column 3, lines 7-49, figures 5-6),

Displaying an interactive TV mode indicator if the displayed TV program supports an interactive TV mode (figure 6, animated character 41, column 6, lines 18-43);

Activating the mode in response to a user request (column 6, lines 44-55)

Opening an interactive window (figure 7, window 45, column 6, lines 44-55, column 7, lines 9-16),

A data tuning device 17 (cable modem) and video tuning device 16 are utilized in the interactive session (column 4, lines 16-21), along with information within the VBI of the received TV signal (column 6, lines 24-29).

Wagner fails to disclose updating a channel status list for interactive programs, including the time, and identifying all channels for which the interactive mode has been activated and the use of a separate tuning device to maintain the interactive video status for each video channel.

Massetti discloses a viewer monitoring system which utilizes an identification code and time stamp to figure out what program a user is watching, additionally, it monitors to see if a user is utilizing a VCR or playing a video game, the monitoring results are stored locally and then transmitted from home computer 82 to a central office (column 6, lines 48-67, column 7, lines 22-67, column 9, lines 11-24, line 57-column 10, line 16, column 13, lines 25- column 14, line 12, line 37column 15, line 50, column 16, lines 8-67), thus providing information to advertisers regarding what programs and services users are watching and using.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify Wagner to include the status features of Massetti, thus providing information to advertisers regarding what programs and services users are watching and using.

The combination of Wagner and Massetti fails to disclose updating a channel status list for interactive programs, including the time, identifying all channels for which the interactive mode has been activated, and the use of a separate tuning device to maintain the interactive video status for each video channel.

Alexander discloses a user monitoring system that records when a user accesses interactive content, the time, and the corresponding channel (column 18, lines

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33-53, column 28, lines 30-67), this data is then analyzed to determine user characteristics for targeted advertising purposes (column 29, lines 14-55, column 30, lines 16-37, column 33, lines 26-43).

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Wagner and Massetti to utilize the monitoring of Alexander in order to analyze user characteristics to provide targeted advertising.

The combination of Wagner, Massetti, and Alexander fails to disclose the use of a plurality of separate tuners to maintain the state of multiple channels.

Mohammed discloses in figure 1, a client 22 which has a cable modem 28 and an analog modem 30 (data tuners each with their own interactive channel and corresponding IP address, column 5, lines 32-61), the user transmits data to the headend server 8 via the analog modem and receives data via the cable modem 28 (column 3, line 60-column 4, line 25), thus making use of the entire bandwidth of the cable modem 28 without taking up bandwidth in the upstream direction.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Wagner, Massetti and Alexander to utilize the multiple data tuners of Mohammed for the advantage of not taking up additional bandwidth in the cable modem channel.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

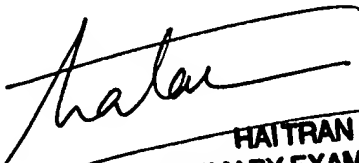
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HBL


HAITRAN
PRIMARY EXAMINER

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